

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**In Re: National Hockey League
Players' Concussion Injury
Litigation**

MDL No. 14-2551 (SRN)

This Document Relates to All Actions

**AMENDED
PRETRIAL ORDER NO. 2¹**

Charles S. Zimmerman and Brian Gudmundson, Zimmerman Reed, PLLP, 1100 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402, for Plaintiffs

Stephen G. Grygiel and William Sinclair, Silverman, Thompson, Slutkin & White, LLC, 201 North Charles Street, Suite 2600, Baltimore, Maryland 21201, for Plaintiffs

Jeffrey D. Bores and Bryan L. Bleichner, Chestnut Cambronne PA, 17 Washington Avenue North, Suite 300, Minneapolis, Minnesota 55401, for Plaintiffs

Stuart Davidson and Mark J. Dearman, Robbins, Geller, Rudman & Dowd, LLP, 120 East Palmetto Park Road, Boca Raton, Florida 33432, for Plaintiffs

Lewis A. Remele and Jeffrey D. Klobucar, Bassford Remele, 33 South Sixth Street, Minneapolis, Minnesota 55402, for Plaintiffs

Thomas Demetrio, William T. Gibbs, Corboy & Demetrio, 33 North Dearborn Street, Chicago, Illinois 60602, for Plaintiffs

Brian D. Penny and Mark S. Goldman, Goldman, Scarlato & Penny PC, 101 East Lancaster Avenue, Suite 204, Wayne, Pennsylvania 19087, for Plaintiffs

Vincent J. Esades and James W. Anderson, Heins Mills & Olson, PLC, 310 Clifton Avenue, Minneapolis, Minnesota 55403, for Plaintiffs

David I. Levine, The Levine Law Firm P.C., 1804 Intracoastal Drive, Fort Lauderdale,

¹ The Order of September 18, 2014 [Doc. No. 18] is amended solely to reflect a change in the caption to "Pretrial Order No. 2."

Florida 33305, for Plaintiffs

Daniel E. Gustafson, Gustafson Gluek, PLLC, 120 South Sixth Street, Suite 2600, Minneapolis, Minnesota 55402, for Plaintiffs

Thomas J. Byrne and Mel Owens, Namanny, Byrne, & Owens, APC, 2 South Pointe Drive, Lake Forest, California 92630, for Plaintiffs

Michael R. Cashman and Richard M. Hagstrom, Zelle Hofmann Voelbel & Mason LLP, 500 South Washington Avenue, Suite 4000, Minneapolis, Minnesota 55415, for Plaintiffs

Daniel J. Connolly, Joseph M. Price, Linda S. Svitak, and Aaron D. Van Oort, Faegre Baker Daniels, LLP, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402; John H. Beisner and Jessica D. Miller, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, Northwest, Washington, D.C. 20005-2111; Shepard Goldfein, James A. Keyte, Matthew M. Martino, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036; James Baumgarten and Adam M. Lupion, Proskauer Rose LLP, Eleven Times Square, New York, New York 10036, for Defendant

SUSAN RICHARD NELSON, United States District Court Judge

This matter is before the Court on Plaintiffs' Application for Leadership Structure [Doc. No. 9]. For the reasons noted below, Plaintiffs' application is approved.

Plaintiffs seek the appointment of the following firms as interim Co-Lead Class Counsel for Plaintiffs: Robbins Geller Rudman & Dowd LLP ("Robbins Geller"); Silverman, Thompson, Slutkin & White, LLC ("Silverman Thompson"); and Zimmerman Reed, PLLP ("Zimmerman Reed"). Plaintiffs also seek the appointment of Bassford Remele as Plaintiffs' Liaison Counsel and the appointment of the following firms as members of Plaintiffs' Executive Committee ("PEC"): Chestnut Cambronne PA; Corboy & Demetrio; Goldman, Scarlato & Penny, PC; Gustafson Gluek, PLLC; Heins Mills &

Olson, PLC; The Levine Law Firm P.C.; Namanny, Byrne & Owens, APC; and Zelle Hofmann Voelbel & Mason LLP.

Federal Rule of Civil Procedure 23(g)(3) permits courts to designate interim class counsel to act on behalf of a putative class prior to any class certification determination. As with class counsel, the duty of interim class counsel is to “fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(4). “While not statutorily required, the appointment of interim class counsel may be helpful in ‘clarify[ing] responsibility for protecting the interests of the class during precertification activities, such as making and responding to motions, conducting any necessary discovery, moving for class certification, and negotiating settlement.’” In re Bank of American Corp. Securities, Derivative & ERISA Litigation, 258 F.R.D. 260, 271-72 (S.D.N.Y. 2009) (quoting The Manual for Complex Litigation § 21.272 (4th ed. 2004)). In appointing class counsel, the Court must specifically consider the following: (1) the work that counsel has done in identifying or investigating potential claims; (2) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in this action; (3) counsel’s knowledge of the applicable law; and (4) counsel’s available resources. Fed. R. Civ. P. 23(g)(1)(A). Also, the Court may consider other matters pertinent to counsel’s ability to adequately represent the interests of the class. Fed. R. Civ. P. 23(g)(1)(B).

Pursuant to the “private ordering process,” whereby prospective counsel agree upon the designation of lead class counsel, subject to the Court’s approval, see generally The Manual for Complex Litigation § 21.272 (4th ed. 2004), Plaintiffs unanimously support

the leadership structure identified in their request. Plaintiffs have submitted firm resumes of all of the prospective law firms to which their request pertains, as well as individual attorney resumes and certificates of good standing for the attorneys in question. (Exs. A1 to A-12; B-1 to B-12; C-1-C12 to Decl. of Brian C. Gudmundson [Doc. No. 10].)

This Court has reviewed the submissions provided by prospective counsel and appoints the law firms of Robbins Geller, Silverman Thompson, and Zimmerman Reed as Plaintiffs' interim Co-Lead Class Counsel; the law firm of Bassford Remele is appointed as Plaintiffs' Liaison Counsel; and following law firms are appointed to the Plaintiffs' Executive Committee: Chestnut Cambronne PA; Corboy & Demetrio; Goldman, Scarlato & Penny, PC; Gustafson Gluek, PLLC; Heins Mills & Olson, PLC; The Levine Law Firm P.C.; Namanny, Byrne & Owens, APC; and Zelle Hofmann Voelbel & Mason LLP. In all instances, these applicants have ample experience in complex litigation and knowledge of the applicable law; have identified claims or investigated potential claims; and have the necessary resources to represent the putative class of Plaintiffs. See Fed. R. Civ. P. 23(g)(1)(A). Moreover, an interim co-lead counsel approach is appropriate, allowing Robbins Geller, Silverman Thompson, and Zimmerman Reed to share resources and expertise during the pre-certification stage of this litigation. The Court further notes that prospective Plaintiffs' counsel agree upon the proposed leadership structure and Defendant National Hockey League has submitted no opposition.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Application for Leadership Structure [Doc. No. 9] is
APPROVED;
2. The law firms of Robbins Geller, Silverman Thompson, and Zimmerman Reed **ARE APPOINTED** as Plaintiffs' interim Co-Lead Class Counsel;
3. The law firm of Bassford Remele **IS APPOINTED** as Plaintiffs' Liaison Counsel; and
4. The following law firms **ARE APPOINTED** to the Plaintiffs' Executive Committee: Chestnut Cambronne PA; Corboy & Demetrio; Goldman, Scarlato & Penny, PC; Gustafson Gluek, PLLC; Heins Mills & Olson, PLC; The Levine Law Firm P.C.; Namanny, Byrne & Owens, APC; and Zelle Hofmann Voelbel & Mason LLP.

Dated: September 19, 2014

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Court Judge